

Senate Bill 213

By: Senators Shafer of the 48th, Hudgens of the 47th and Moody of the 56th

**AS PASSED**

**AN ACT**

To amend Chapter 3 of Title 33 of the Official Code of Georgia Annotated, relating to authorization and general requirements for transaction of insurance, so as to provide that the Commissioner of Insurance is authorized to waive retaliatory obligations, prohibitions, or restrictions under certain circumstances; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Chapter 3 of Title 33 of the Official Code of Georgia Annotated, relating to authorization and general requirements for transaction of insurance, is amended by revising Code Section 33-3-26, relating to retaliation, as follows:

"33-3-26.

(a) When by or pursuant to the laws of any other state or foreign country any taxes, licenses, and other fees in the aggregate and any fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions are or would be imposed upon Georgia insurers or upon the agents or representatives of such insurers which are in excess of such taxes, licenses, and other fees in the aggregate or which are in excess of the fines, penalties, deposit requirements, or other obligations, prohibitions, or restrictions directly imposed upon similar insurers or upon the agents or representatives of such insurers of such other state or country under the statutes of this state, so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses, and other fees in the aggregate or fines, penalties, deposit requirements, or other material obligations, prohibitions, or restrictions of whatever kind shall be imposed by the Commissioner upon the insurers or upon the agents or representatives of such insurers of such other state or country doing business or seeking to do business in Georgia. Any tax, license, or other fee or other obligation imposed by any city, county, or other political subdivision or agency

of such other state or country on Georgia insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this Code section.

(b) The Commissioner may waive any retaliatory obligations, prohibitions, or restrictions that would prohibit entry into this state of any insurer domiciled in another state and that would otherwise be imposed by subsection (a) of this Code section if, in his or her discretion, the entry of such insurer would be expected to enhance competition in this state and would be in the best interests of the citizens of this state. The discretion provided by this subsection shall not extend to any retaliatory taxes, fees, fines, penalties, or deposit requirements.

(c) This Code section shall not apply as to personal income taxes, as to ad valorem taxes on real or personal property, or as to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance, except that deductions from premium taxes or other taxes otherwise payable allowed on account of real estate or personal property taxes paid shall be taken into consideration by the Commissioner in determining the propriety and extent of retaliatory action under this Code section.

(d) For the purposes of this Code section, the domicile of an alien insurer other than insurers formed under the laws of Canada shall be that state designated by the insurer in writing filed with the Commissioner at the time of admission to this state and may be any one of the following states:

(1) This state if the insurer is entering through this state to transact insurance in the United States through a United States branch;

(2) That in which the insurer was first authorized to transact insurance;

(3) That in which is located the insurer's principal place of business in the United States;  
or

(4) That in which is held the larger deposit of trust assets of the insurer for the protection of its policyholders and creditors in the United States.

(e) If the insurer makes no such designation, its domicile shall be deemed to be that state in which is located its principal place of business in the United States.

(f) In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated."

## **SECTION 2.**

All laws and parts of laws in conflict with this Act are repealed.